

Rockport Board of Appeals
October 29, 2013
7:30 P.M.
Rockport Public Library
The Brenner Room
17 School Street, Rockport, MA

- 1) Call to order at 7:30 P.M. Members present Peter Bergholtz (Chairing), Tacy D. San Antonio, Alan Battistelli, John N. Rees, Lars-Erik Wiberg, Frederick Frithsen, Joyce Fossa and Michael Bace. Charles W. Christopher absent.
- 2) Hearing of Three Keys Group, LLC. for a variance and/or special permit to allow a change of use from inn to apartment at the Cape Hedge Inn at 151 South Street, Rockport.
 - a) Opened 7:30 P.M. Continued to next meeting.
 - b) Members of the Board sitting are Alan Battistelli (Presiding), Tacy San Antonio, John N. Rees, Lars-Erik Wiberg and Frederick Frithsen.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Attorney Robert Visnik, 11 School Street, Rockport, MA, represents petitioners.
 - i) Cape Hedge Inn (formerly Turk Head Inn) was burned down and rebuilt in the 70's.
 - ii) The State permitted a rebuild and its continued use as an inn. The building was erected.
 - iii) The respective purchasers have been told that the use has changed to a multiple unit dwelling and therefore needs a special permit.
 - iv) The question is if the use has changed or not.
 - v) There has been no substantial change in use.
 - vi) Use is in response to present market conditions. There is no longer a need for short term stays. An inn by definition may have long term or short term stays.
 - vii) Licenses as an inn are current and room taxes are paid.
 - viii) If this is a change you must give a special permit as it is no more detrimental to the neighborhood.
 - ix) Make a finding that it is an inn with no change of use or grant a special permit.
 - e) The Andrew Stevens co-owner of Three Keys Group LLC. stated that they will be upgrading while maintaining property and will add no extensions of the buildings. It will be low exposure and quiet.
 - i) There will be active local management for control of tenants and maintenance.
 - ii) Alan Battistelli asked if intentions as an inn was to use it as only long term rentals with no desk service or linen service etc. to which Andrew Stevens replied in the affirmative.
 - iii) John N. Rees asked if tenants could provide their own furnishings and if they could stay for years looking at it as a permanent residence longer than 30 days. Again it was answered in the affirmative.
 - iv) Lars-Erik Wiberg suggested this might be a change in intensification but the Andrew Stevens replied that the present owner have been running it like this for years.
 - v) John N. Rees said that it sounds like an apartment but Andrew Stevens suggested it is closer to a multiple dwelling.
 - vi) The rooms are 12 by 27 studios with a kitchenette and 2 with kitchens.

- vii) Michael and Patrick Beaton, the present owners, stated that there are presently 21 units but the inn is licensed for 29. The restaurant will not be active.
- viii) Tacy San Antonio asked if there will be seasonal rates and Andrew Stevens replied no.
- f) John Doue, 73 Eden Rd. Rockport asked how long terms of lease would be for. The answer was that they would all probably be more than 30 days.
- g) Ann Stevens of 10 Winterhaven Road, Gloucester, submitted a petition in support of this petition. 40 taxpayers signed and a number of letters will be submitted to the Board.
- h) Mark Curley of 8 Old Penzance Road, Rockport, spoke for the South End Association and entered a letter into the record.
 - i) Future owners want this to become an apartment house which State building code classifies as an R1 & R2. An in can not fit into this code as the code excludes inns.
 - ii) Local bylaws define inn as a facility with long and short-term residence. A transient is less than thirty days. Residents in the area want an inn not an apartment house.
 - iii) If the Board allows the change it will take rooms away from tourists and lodging taxes will be lost. You should check that these taxes have been paid.
 - iv) Going from 21 to 29 units will be detrimental to the neighborhood. It should be in harmony with the neighborhood, which it isn't.
 - v) Is there an abandonment of use as an inn if they have stopped paying lodging tax.
 - vi) Please deny this request to go from guest to tenant at will.
- i) Mr. Beaton replied.
 - i) It is an inn and can operate on a transient and permanent basis. Occupancy tax only applies to stays less than 90 days. All present residents have stayed longer than that.
 - ii) It has allows been 29 units.
 - iii) Long term is less usage because it is only 1-2 people per unit.
 - iv) There has been no abandonment.
- j) Alan Battistelli asked if petitioner was asking for multiple dwelling use. The applicant is asking for clarification.
- k) Mason Brown of 140-141 South Street said that it was an inn for summer use and now you can refer to it as an apartment or multi-unit complex but not an inn.
- l) Sid Wedmore of 155 South Street talk about the inn under the Beaton Ownership.
 - i) It has been invisible, quiet and tidy. It has been better since it went to long-term residents.
 - ii) The people living there are unable to afford expensive homes in Rockport.
 - iii) Will these qualify as low-income housing?
- m) Rick Osgood of 22 Oakes Lane, Rockport is against this petition as it is no longer an inn and the quality of maintenance has gone down.
- n) Gail Zeman of 3 Penzance Road, Rockport, is an abutter and feels this is a substantial change in use from what Rockport has viewed as an inn.
 - i) It will have an adverse impact on the neighborhood.
 - ii) The density of 29 units is different from other structures in Rockport.
 - iii) There has been no innkeeper in over a year.
 - iv) A very dense apartment building in a single residence zone is detrimental.

- o) Bruce Sunstein of 14 Penzance Road, Rockport.
 - i) Owners have changed use over the years.
 - ii) Is this sending out an OK to all the inns in Rockport to turn into apartment buildings?
 - iii) The economic failure of the inn is do to poor management.
 - p) Denise Penta of 151 South Street, Rockport, is in favor of the petition.
 - q) Sandra Dawson a resident of 151 South Street, Rockport, is in favor of this petition as it will have very little impact on area and will enhance the neighborhood.
 - r) Sharon Grand Mason 151 South Street, Rockport, stated that there was more noise and impact on the neighborhood when the inn had transient guests.
 - s) Denise Outwater who lives 3 blocks from the inn stated that an apartment complex can draw a criminal element and is therefor opposed to this petition.
 - t) Attorney Robert Visnik representing the petitioners.
 - i) Times have changed and the inn has changed.
 - ii) They requested a variance and special permit to cover all bases.
 - iii) A special permit is needed for a change of use.
 - u) Alan Battistelli asked if 10% of low-income housing was provided for an apartment. Presently more than 10% qualifies as low-income housing.
 - v) Andrew Stevens spoke to fact that there are presently 21 units and they are not presently going to 29. They would have to come before the Board to ask for 23 units.
 - w) Alan Battistelli said that there had been a number of letters including one from the Town Attorneys Kopelman and Paige that came in just today. John N. Rees said that a lot had come up and the Board needed time to review all the new information. John N. Rees moved that with the petitioners consent the Board continue this issue to the next Board meeting. Lars-Erik Wiberg seconded and the petitioner agreed. The vote was unanimous with Alan Battistelli, John N. Rees, Tacy San Antonio, Lars-Erik Wiberg and Frederick Frithsen voting.
- 3) Hearing of Seaward Inn, Inc. for a variance and/or special permit to subdivide the Seaward Inn lot and to allow a change of use of the main building from restaurant to private residence at 44 Marmion Way, Rockport.
- a) Opened 8:58 P.M. Closed 9:08 P.M.
 - b) Members of the Board sitting are Peter Bergholtz (presiding) John N. Rees, Alan Battistelli, Joyce Fossa and Michael Bace.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Attorney Robert Visnik 11 School Street, Rockport represented the applicants.
 - i) The owners are selling the inn.
 - ii) They are splitting the parcel into a new lot.
 - iii) Parcel 1A will remain an inn.
 - iv) A special permit will be needed to change use to single-family dwelling.
 - v) Market conditions are driving this request.
 - vi) Will split the lot into 1A and 1B.
 - vii) Alan Battistelli asked what the non conformities will be and was answered that
 - (1) there will be a nonconformity for the front set back on lot 1A.
 - (2) lot 1B coverage will be about 27%.
 - viii) The land across the street goes with lot 1B and has a permanent restriction.
 - e) Audience

- i) Carl Derdarian of 41 Marmion Way asked if the property would be considered ocean view or ocean frontage for tax purposes. Peter Bergholtz acknowledged that this would be decided by the Assessors' office. The Board had no jurisdiction over this.
 - ii) Peter Bergholtz acknowledged that a number of letters had been submitted all in favor of this petition.
- 4) Discussion of Petitions
 - a) Three Keys Group, LLC
 - i) Lars-Erik Wiberg said that if it has a kitchen it is a dwelling unit.
 - ii) Alan Battistelli and Frederick Frithsen said there was a hole in the bylaw as an inn can have transient and permanent residents. Only dealing with change to a multi unit. It should include enforcement of 10% low-income and watch out for condo conversions.
 - iii) Three members will not be in town for the scheduled November meeting so Alan Battistelli moved to change the date of the meeting to December 10, 2013. Lars-Erik Wiberg seconded and it passed unanimously with Alan Battistelli, John N. Rees, Tacy San Antonio, Lars-Erik Wiberg and Frederick Frithsen voting.
 - b) Seaward Inn, Inc.
 - i) Michael Bace moved to approve the petitioner's request.
 - ii) Joyce Fossa seconded and it passed unanimously with Peter Bergholtz, John N. Rees, Alan Battistelli, Joyce Fossa and Michael Bace voting.
- 5) Approval of Minutes: September 24, 2013
 - a) John N. Rees moved to approve the minutes as presented.
 - b) Frederick Frithsen seconded and it passed unanimously with Peter Bergholtz, Tacy D. San Antonio, Alan Battistelli, John N. Rees, Lars-Erik Wiberg, Frederick Frithsen, Joyce Fossa and Michael Bace voting.
- 6) Old Business: Update on Rules of Procedure revisions
 - a) 99% of the changes have been written.
 - b) Another workshop will set up to finalize the new Rules of Procedure and Application.
- 7) New Business: The Krenn gift
 - a) Alan Battistelli moved that the members purchase a new air conditioner for the library's Trustee Room with a plaque in memory of John Krenn.
 - b) The members all agreed.
- 8) Next Possible Meeting December 10, 2013.
- 9) Motion to adjourn made by Alan Battistelli and seconded by John N. Rees. Passed unanimously with Peter Bergholtz (Chairing), Tacy D. San Antonio, Alan Battistelli, John N. Rees, Lars-Erik Wiberg, Frederick Frithsen, Joyce Fossa and Michael Bace voting.
Adjournment at 9:52 P.M.